

E-Filed on 11/14/07

1      **DIAMOND MCCARTHY LLP**

909 Fannin, Suite 1500  
 Houston, Texas 77010  
 Telephone (713) 333-5100  
 Facsimile (713) 333-5199

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 Email: adiamond@diamondmccarthy.com  
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5      Special Litigation Counsel for USACM Liquidating Trust

2      **LEWIS AND ROCA LLP**

3993 Howard Hughes Parkway, Suite 600  
 Las Vegas, NV 89169-5996  
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Susan M. Freeman, AZ State Bar No. 004199  
 Email: sfreeman@lrlaw.com  
 Rob Charles, NV State Bar No. 006593  
 Email: rcharles@lrlaw.com

6      Counsel for USACM Liquidating Trust

7      **UNITED STATES BANKRUPTCY COURT**  
 8      **DISTRICT OF NEVADA**

9      In re:  
 USA COMMERCIAL MORTGAGE COMPANY,

10     Debtor.

Case Nos.:  
 BK-S-06-10725-LBR  
 BK-S-06-10726-LBR  
 BK-S-06-10727-LBR  
 BK-S-06-10728-LBR  
 BK-S-06-10729-LBR

11     In re:  
 USA CAPITAL REALTY ADVISORS, LLC,

12     Debtor.

JOINTLY ADMINISTERED  
 Chapter 11 Cases

13     In re:  
 USA CAPITAL DIVERSIFIED TRUST DEED  
 FUND, LLC,

14     Debtor.

Judge Linda B. Riegle Presiding

15     In re:  
 USA CAPITAL FIRST TRUST DEED FUND,  
 LLC,

16     Debtor.

17     In re:  
**NOTICE OF FILING PROOFS OF  
 SERVICE OF SUBPOENAS FOR  
 RULE 2004 EXAMINATION**

18     USA SECURITIES, LLC,

19     Debtor.

20     Affects:

- All Debtors
- USA Commercial Mortgage Company
- USA Capital Realty Advisors, LLC
- USA Capital Diversified Trust Deed Fund, LLC
- USA Capital First Trust Deed Fund, LLC
- USA Securities, LLC

24     NOTICE IS GIVEN that the USACM Liquidating Trust herewith files the:

25     **Proof of Service of Subpoena for Rule 2004 Examination  
 26     on St. Tropez – Homes for America Holdings, LLC f/k/a  
 Riviera – HFAH, LLC (Exhibit A Attached);**

1                   **Proof of Service of Subpoena for Rule 2004 Examination**  
2                   **on Mediterranean-HFA, LLC f/k/a HFAH – Monaco, LLC**  
3                   **(Exhibit B Attached);**

4                   **Proof of Service of Subpoena for Rule 2004 Examination**  
5                   **on HFAH Clear Lake, LLC (Exhibit C Attached);**

6                   **Proof of Service of Subpoena for Rule 2004 Examination**  
7                   **on Beau Rivage Homes for America, LLC (Exhibit D**  
8                   **Attached); and**

9                   **Proof of Service of Subpoena for Rule 2004 Examination**  
10                  **on Vanderpool, Frostick & Nishanian (Exhibit E**  
11                  **Attached).**

12                  DATED: November 14, 2007

13                  **DIAMOND MCCARTHY LLP**

14                  **LEWIS AND ROCA LLP**

15                  By: /s/ Eric D. Madden

16                  Allan B. Diamond, TX 05801800 (pro hac vice)  
17                  William T. Reid, IV, TX 00788817 (pro hac vice)  
18                  Eric D. Madden, TX 24013079 (pro hac vice)  
19                  909 Fannin, Suite 1500  
20                  Houston, Texas 77010  
21                  (713) 333-5100 (telephone)  
22                  (713) 333-5199 (facsimile)

23                  *Special Litigation Counsel for*  
24                  *USACM Liquidating Trust*

25                  By: /s/ Rob Charles

26                  Susan M. Freeman, AZ 4199 (pro hac vice)  
27                  Rob Charles, NV 6593  
28                  3993 Howard Hughes Parkway, Suite 600  
29                  Las Vegas, Nevada 89169-5996  
30                  (702) 949-8320 (telephone)  
31                  (702) 949-8321 (facsimile)

32                  *Counsel for USACM Liquidating Trust*

# United States Bankruptcy Court

SOUTHERN DISTRICT OF NEW YORK

**IN RE**

**USA COMMERCIAL MORTGAGE COMPANY,  
USA CAPITAL REALTY ADVISORS, LLC,  
USA CAPITAL DIVERSIFIED TRUST DEED FUND LLC,  
USA CAPITAL FIRST TRUST DEED FUND LLC,  
USA SECURITIES, LLC,**

**SUBPOENA FOR RULE 2004 EXAMINATION**

CASE NOS. BK-S-06-10725 LBR  
BK-S-06-10726 LBR  
BK-S-06-10727 LBR  
BK-S-06-10728 LBR  
BK-S-06-10729 LBR

**DEBTORS.**

JOINTLY ADMINISTERED UNDER  
**CASE NO. BK-S-06-10725-LBR**  
IN THE DISTRICT OF NEVADA

**AFFECTS: ALL DEBTORS**

**TO:** St. Tropez – Homes for America Holdings, LLC  
f/k/a Riviera – HFAH, LLC  
Attn: Any Officer or Director  
86 Main Street, 2<sup>nd</sup> Floor  
Yonkers, New York 10701

**X YOU ARE COMMANDED** to produce a corporate representative for examination under Federal Rule of Bankruptcy Procedure 2004, regarding the following topics at the place, date and time specified below. The USACM Liquidating Trust reserves the right to videotape all examinations.

**SEE ATTACHED EXHIBIT A FOR TOPICS OF EXAMINATION**

PLACE OF TESTIMONY	DATE AND TIME
MERRILL LEGAL SOLUTIONS 25 W. 45 <sup>TH</sup> STREET, SUITE 900 NEW YORK, NEW YORK 10036	Fourteen days after date of service (or such other mutually agreeable date and time)

**SEE ATTACHED EXHIBIT B FOR DOCUMENTS REQUESTED**

**X YOU ARE COMMANDED** to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below:

PLACE	DATE
MERRILL LEGAL SOLUTIONS 25 W. 45 <sup>TH</sup> STREET, SUITE 900 NEW YORK, NEW YORK 10036	September 28, 2007 (or such other mutually agreeable date and time)
ISSUING OFFICER SIGNATURE AND TITLE  Special Litigation Counsel for the USACM Liquidating Trust	DATE September 6, 2007

## ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

MICHAEL YODER  
DIAMOND MCCARTHY, LLP  
909 FANNIN, SUITE 1500  
HOUSTON, TX 77010  
(713) 333-5100

**EXHIBIT**

tabler

A

**PROOF OF SERVICE**

DATE: <b>September 7, 2007</b>	PLACE: St. Tropez-Homes for America Holdings, LLC 86 Main Street, 2nd Fl Yonkers, NY 10701
SERVED: at 11:15am	MANNER OF SERVICE Personal Service
SERVED ON (PRINT NAME) "Jane Doe", Receptionist *Nancy Benzal, General Corporation Counsel refused to come back out to accept papers	

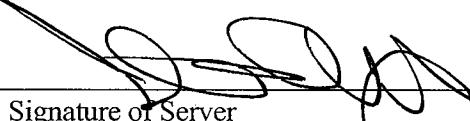
**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on September 10, 2007

Date

Signature of Server

  
John Axelrod

Address of Server

Rule 45, Federal Rules of Civil Procedure, Parts (c) & (d) made applicable in cases under the Bankruptcy Code by Rule 9016, Fed.R.Bankr.P.:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order by the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any persons who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held or,

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or  
(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or  
(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

# United States Bankruptcy Court

SOUTHERN DISTRICT OF NEW YORK

IN RE

**USA COMMERCIAL MORTGAGE COMPANY,  
USA CAPITAL REALTY ADVISORS, LLC,  
USA CAPITAL DIVERSIFIED TRUST DEED FUND LLC,  
USA CAPITAL FIRST TRUST DEED FUND LLC,  
USA SECURITIES, LLC,**

SUBPOENA FOR RULE 2004 EXAMINATION

CASE NOS. BK-S-06-10725 LBR  
BK-S-06-10726 LBR  
BK-S-06-10727 LBR  
BK-S-06-10728 LBR  
BK-S-06-10729 LBR

**DEBTORS.**

**JOINTLY ADMINISTERED UNDER  
CASE NO. BK-S-06-10725-LBR  
IN THE DISTRICT OF NEVADA**

**AFFECTS: ALL DEBTORS**

**TO:** Mediterranean-HFA, LLC  
f/k/a HFAH – Monaco, LLC  
Attn: Any Officer or Director  
86 Main Street, 2<sup>nd</sup> Floor  
Yonkers, New York 10701

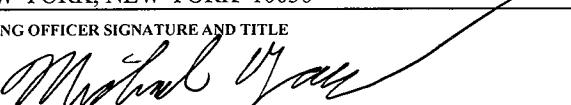
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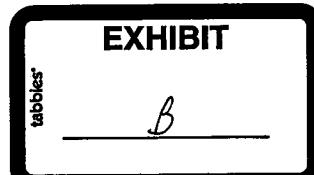
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PLACE	DATE
MERRILL LEGAL SOLUTIONS 25 W. 45 <sup>TH</sup> STREET, SUITE 900 NEW YORK, NEW YORK 10036	September 28, 2007 (or such other mutually agreeable date and time)
ISSUING OFFICER SIGNATURE AND TITLE  Special Litigation Counsel for the USACM Liquidating Trust	DATE September 6, 2007

## ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

MICHAEL YODER  
DIAMOND MCCARTHY, LLP  
909 FANNIN, SUITE 1500  
HOUSTON, TX 77010  
(713) 333-5100



**PROOF OF SERVICE**

DATE: <b>September 7, 2007</b>	PLACE: <b>Mediterranee-HFA, LLC f/k/a HFAH-Monaco, LLC 86 Main Street, 2nd Fl Yonkers, NY 10701</b>
SERVED: at 11:15am  <b>SERVED ON (PRINT NAME)</b>  <b>"Jane Doe", Receptionist *Nancy Benzal, General Corporation Counsel refused to come back out to accept papers</b>	MANNER OF SERVICE  <b>Personal Service</b>

**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on September 10, 2007

Date

Signature of Server  
**John Axelrod**

Address of Server

Rule 45, Federal Rules of Civil Procedure, Parts (c) & (d) made applicable in cases under the Bankruptcy Code by Rule 9016, Fed.R.Bankr.P.:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order by the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any persons who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

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(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held or,

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# United States Bankruptcy Court

SOUTHERN DISTRICT OF NEW YORK

**IN RE**

USA COMMERCIAL MORTGAGE COMPANY,  
 USA CAPITAL REALTY ADVISORS, LLC,  
 USA CAPITAL DIVERSIFIED TRUST DEED FUND LLC,  
 USA CAPITAL FIRST TRUST DEED FUND LLC,  
 USA SECURITIES, LLC,

**SUBPOENA FOR RULE 2004 EXAMINATION**

CASE NOS. BK-S-06-10725 LBR  
BK-S-06-10726 LBR  
BK-S-06-10727 LBR  
BK-S-06-10728 LBR  
BK-S-06-10729 LBR

**DEBTORS.**

JOINTLY ADMINISTERED UNDER  
 CASE NO. BK-S-06-10725-LBR  
 IN THE DISTRICT OF NEVADA

**AFFECTS: ALL DEBTORS**

**TO:** HFAH Clear Lake, LLC  
 Attn: Any Officer or Director  
 86 Main Street, 2<sup>nd</sup> Floor  
 Yonkers, New York 10701

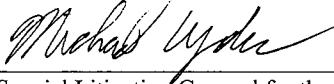
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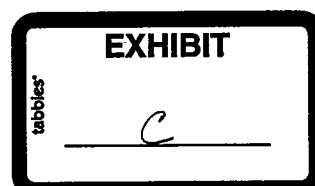
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ISSUING OFFICER SIGNATURE AND TITLE 	DATE September 6, 2007

Special Litigation Counsel for the USACM Liquidating Trust

**ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER**

MICHAEL YODER  
 DIAMOND MCCARTHY, LLP  
 909 FANNIN, SUITE 1500  
 HOUSTON, TX 77010  
 (713) 333-5100



**PROOF OF SERVICE**

DATE: <b>September 7, 2007 at 11:15am</b>	PLACE: <b>HFAH Clear Lake, LLC 86 Main Street, 2nd Floor Yonkers, NY 10701</b>
SERVED ON (PRINT NAME) <b>"Jane Doe", Receptionist *Nancy Benzal, General Corporation Counsel refused to come back out to accept papers</b>	MANNER OF SERVICE <b>Personal Service</b>

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SOUTHERN DISTRICT OF NEW YORK

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SUBPOENA FOR RULE 2004 EXAMINATION

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**DEBTORS.**

**JOINTLY ADMINISTERED UNDER  
CASE NO. BK-S-06-10725-LBR  
IN THE DISTRICT OF NEVADA**

**AFFECTS: ALL DEBTORS**

**TO:** Beau Rivage Homes for America, LLC  
Attn: Any Officer or Director  
86 Main Street, 2<sup>nd</sup> Floor  
Yonkers, New York 10701

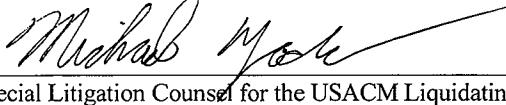
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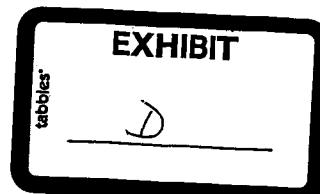
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ISSUING OFFICER SIGNATURE AND TITLE  Special Litigation Counsel for the USACM Liquidating Trust	DATE September 6, 2007

**ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER**

MICHAEL YODER  
DIAMOND MCCARTHY, LLP  
909 FANNIN, SUITE 1500  
HOUSTON, TX 77010  
(713) 333-5100



**PROOF OF SERVICE**

DATE: <b>September 7, 2007</b>	PLACE: <b>Beau Rivage Homes for America LLC 86 Main Street, 2nd Fl Yonkers, NY 10701</b>
SERVED: <b>at 11:15am</b>	MANNER OF SERVICE <b>Personal Service</b>
SERVED ON (PRINT NAME) <b>"Jane Doe", Receptionist *Nancy Benzal, General Corporation Counsel refused to come back out to accept papers</b>	

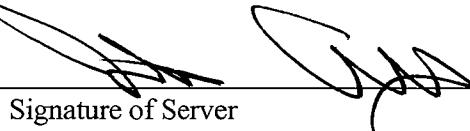
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(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order by the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any persons who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held or,

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or  
(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or  
(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or  
(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

***United States Bankruptcy Court***  
 DISTRICT OF COLUMBIA

**IN RE**

**USA COMMERCIAL MORTGAGE COMPANY,  
 USA CAPITAL REALTY ADVISORS, LLC,  
 USA CAPITAL DIVERSIFIED TRUST DEED FUND LLC,  
 USA CAPITAL FIRST TRUST DEED FUND LLC,  
 USA SECURITIES, LLC,**

**SUBPOENA FOR RULE 2004 EXAMINATION**

CASE NOS. **BK-S-06-10725 LBR  
 BK-S-06-10726 LBR  
 BK-S-06-10727 LBR  
 BK-S-06-10728 LBR  
 BK-S-06-10729 LBR**

**DEBTORS.**

JOINTLY ADMINISTERED UNDER  
**CASE NO. BK-S-06-10725-LBR**  
 IN THE DISTRICT OF NEVADA

**AFFECTS: ALL DEBTORS**

**TO:** Vanderpool, Frostick & Nishanian, P.C.  
 Attn: Any Officer or Director  
 9200 Church Street, Suite 400  
 Manassas, Virginia 20110

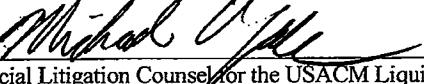
**X YOU ARE COMMANDED** to produce a corporate representative for examination under Federal Rule of Bankruptcy Procedure 2004, regarding the following topics at the place, date and time specified below. The USACM Liquidating Trust reserves the right to videotape all examinations.

**SEE ATTACHED EXHIBIT A FOR TOPICS OF EXAMINATION**

PLACE OF TESTIMONY	DATE AND TIME
MERRILL LEGAL SOLUTIONS 1100 CONNECTICUT AVE. NW, SUITE 850 WASHINGTON, DC 20036	September 28, 2007 9:30 A.M. (or such other mutually agreeable date and time)

**SEE ATTACHED EXHIBIT B FOR DOCUMENTS REQUESTED**

**X YOU ARE COMMANDED** to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below:

PLACE	DATE
MERRILL LEGAL SOLUTIONS 1100 CONNECTICUT AVE. NW, SUITE 850 WASHINGTON, DC 20036	September 7, 2007 (or such other mutually agreeable date and time)
ISSUING OFFICER SIGNATURE AND TITLE	DATE
 Special Litigation Counsel for the USACM Liquidating Trust	August 24, 2007
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER	
MICHAEL YODER DIAMOND MCCARTHY LLP 909 FANNIN, SUITE 1500 HOUSTON, TEXAS 77010 (713) 333-5100	

**EXHIBIT**

tables\*

E

**PROOF OF SERVICE**

SERVED:	DATE: 9/4/07 @ 2:15 pm	PLACE: Vanderpool, Frostick & Nishanian, P.C. 9200 Church Street, Suite 400 Manassas, VA 20110
SERVED ON (PRINT NAME) <b>Michael R. Vanderpool</b>		MANNER OF SERVICE <b>Corporate</b>

**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on September 4, 2007

Date

Signature of Server

Address of Server

**MACH 5 Couriers, Inc.**  
1201 Louisiana, Suite 210  
Houston, TX 77002

Rule 45, Federal Rules of Civil Procedure, Parts (c) & (d) made applicable in cases under the Bankruptcy Code by Rule 9016, Fed.R.Bankr.P.

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(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

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